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**IN THE UNITED STATE DISTRICT COURT  
DISTRICT OF MONTANA  
GREAT FALLS DIVISION**

ELENA SALINAS,

Plaintiff,

v.

VALLEY COUNTY, LUKE STROMMEN,  
& JOHN DOES 1-3,

Defendants.

Cause No. CV-19-90-GF-BMM

**SECOND AMENDED  
COMPLAINT AND DEMAND  
FOR JURY TRIAL**

COMES NOW ELENA SALINAS, by and through her attorneys of Everett Cook Law, PLLC, and for her causes of action against the defendants, for **which she demands a jury trial**, claims and alleges as follows:

**I**

ELENA SALINAS is a resident of the City of Columbus, County of Burke, State of North Dakota. The basis for jurisdiction is 28 U.S.C. § 1332, and the amount in controversy exceeds the sum or value of \$75,000.00.

## **II**

At the time he sexually assaulted/abused Plaintiff, Defendant LUKE STROMMEN was a resident of the State of Montana. He is currently a resident of Glasgow, Valley County, Montana.

## **III**

For all times material herein, Defendant VALLEY COUNTY is a county sheriff's department located in Glasgow, Valley County, Montana, and a political subdivision of the State of Montana.

## **IV**

JOHN DOES 1-3 are individuals or entities that may be responsible for some or all of Plaintiff's damages. The identity of these parties will be substituted upon discovery.

## **V**

In approximately December, 2017, Defendant LUKE STROMMEN went to plaintiff's house under the pretense of work as an officer of the law.

## **VI**

While at plaintiff's house LUKE STROMMEN proceeded to physically and sexually assault plaintiff.

**VII**

VALLEY COUNTY and the Valley County Sheriff's Department were responsible for the supervision of defendant LUKE STROMMEN at the time of the sexual assault/abuse.

**VIII**

Defendants VALLEY COUNTY and LUKE STROMMEN engaged in negligent and intentional conduct towards Plaintiff ELENA SALINAS as described below, causing her harm.

**COUNT I  
NEGLIGENT HIRING**

**IX**

Plaintiff ELENA SALINAS realleges the allegations in Paragraphs VIII of this complaint.

**X**

Defendant VALLEY COUNTY hired defendant LUKE STROMMEN. Defendant LUKE STROMMEN was employed as the Valley County Undersheriff for the Valley County Sheriff's Department at the time he sexually assaulted Plaintiff ELENA SALINAS

**XI**

Defendant LUKE STROMMEN was not competent to fill the position of undersheriff at the time he was hired based on his past history of violent and/or inappropriate conduct towards women and children.

**XII**

Defendant VALLEY COUNTY knew or should have known that Defendant LUKE STROMMEN was not competent to fill the position of undersheriff at the time it hired him.

**XIII**

Defendant VALLEY COUNTY's act of hiring Defendant LUKE STROMMEN and its failure to protect Plaintiff ELENA SALINAS from Defendant LUKE STROMMEN caused Plaintiff ELENA SALINAS harm, including but not limited to severe and serious mental distress, mental and physical injury, past and future medical expenses, past and future lost income, impairment to earning capacity and loss of established course of life.

**COUNT II  
NEGLIGENT RETENTION**

**XIV**

Plaintiff ELENA SALINAS realleges the allegations in Paragraphs I-XIII of this complaint.

**XV**

During the course of Defendant LUKE STROMMEN'S employment with VALLEY COUNTY, Defendant VALLEY COUNTY became aware or should have become aware that Defendant LUKE STROMMEN was incompetent or unfit to fill the position of undersheriff based on his prior violent and/or inappropriate sexual conduct towards women and children and/or other inappropriate conduct he engaged in.

**XVI**

Defendant VALLEY COUNTY failed to take further action such as, investigating, discharging, supervising or reassigning Defendant LUKE STROMMEN.

**XVII**

Defendant VALLEY COUNTY's negligent retention of Defendant LUKE STROMMEN caused plaintiff ELENA SALINAS harm, including but not limited to: severe and serious mental distress, mental and physical injury, past and future medical expenses, past and future lost income, impairment to earning capacity, and loss of established course of life, for which she claims damages.

**COUNT III  
NEGLIGENT SUPERVISION OF EMPLOYEE**

**XVIII**

Plaintiff ELENA SALINAS realleges the allegations in Paragraphs I-XVII of this complaint.

**XIX**

Defendant LUKE STROMMEN created a risk of harm to Plaintiff ELENA SALINAS based on his propensity of violent and/or inappropriate sexual conduct towards women and children and/or other inappropriate conduct he engaged in while on duty.

**XX**

Defendant VALLEY COUNTY knew or should have known of Defendant LUKE STROMMEN's propensity to present a risk of harm to Plaintiff.

**XXI**

Defendant VALLEY COUNTY failed to supervise Defendant LUKE STROMMEN.

**XXII**

Defendant VALLEY COUNTY's failure to supervise Defendant LUKE STROMMEN caused Plaintiff ELENA SALINAS harm, including but not limited to: severe and serious mental distress, mental and physical injury, past and future medical expenses, past and future lost income, impairment to earning capacity, and loss of established course of life, for which she claims damages.

**COUNT IV  
BATTERY**

**XXIII**

Plaintiff ELENA SALINAS realleges the allegations in Paragraphs I-XXII of this complaint.

**XXIV**

Defendant LUKE STROMMEN'S sexual conduct towards Plaintiff ELENA SALINAS was intentional, harmful, and offensive, and without Plaintiff's consent, causing harm to Plaintiff for which she claims damages.

**COUNT V  
NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

**XXV**

Plaintiff ELENA SALINAS realleges the allegations in paragraphs I-XXIV of this complaint.

**XXVI**

That the negligent conduct of the Defendant VALLEY COUNTY as set forth above has caused Plaintiff ELENA SALINAS to suffer and continue to suffer serious and severe mental and emotional distress for which she claims damages.

**XXVII**

That Plaintiff ELENA SALINAS' serious and severe mental and emotional distress was a foreseeable consequence of Defendants VALLEY COUNTY's negligent conduct as set forth above.

**COUNT VI  
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

**XXVIII**

Plaintiff ELENA SALINAS realleges the allegations in paragraphs I-XXVII of this complaint.

**XXIX**

That the intentional conduct of the Defendant LUKE STROMMEN as set forth above has caused Plaintiff ELENA SALINAS to suffer and continue to suffer serious and severe mental and emotional distress for which she claims damages.

**XXX**

That Plaintiff ELENA SALINAS' serious and severe mental and emotional distress was a foreseeable consequence of Defendant LUKE STROMMEN'S intentional conduct as set forth above.

**COUNT VII  
RESPONDEAT SUPERIOR**

**XXXI**

Plaintiff ELENA SALINAS realleges the allegations in Paragraphs I-XXX of this complaint.

**XXXII**

Defendant VALLEY COUNTY is vicariously liable for the damages caused to Plaintiff ELENA SALINAS by LUKE STROMMEN when he sexually assaulted/abused her at her home while on duty and in the course and scope of employment under the doctrine of respondeat superior.

**XXXIII**

Restatement (Second) of Agency § 214 provides that a master or other principle who is under a duty to provide protection for or to have care used to protect others or their property and who confides the performance of such duty to a servant or other person is subject to liability to such others for harm caused to them by the failure of such agent to perform the duty. The Montana Supreme Court has adopted the Restatement (Second) of Agency § 214 as an appropriate statement of the law in Montana.

**XXXIV**

Defendants VALLEY COUNTY had a duty to provide protection for or to have care used to protect Plaintiff ELENA SALINAS and it confided the performance of such duty to its agents, including LUKE STROMMEN.



**XXXV**

Defendants VALLEY COUNTY and its agents breached their duty to provide protection for or to have care used to protect Plaintiff ELENA SALINAS, causing her harm, including but not limited to: severe and serious mental distress, mental and physical injury, past and future medical expenses, past and future lost income, impairment to earning capacity, and loss of established course of life, for which she claims damages.

**COUNT VIII  
42 U.S.C. § 1983**

**XXXVI**

Plaintiff ELENA SALINAS realleges the allegations in paragraphs I-XXXV of this complaint.

**XXXVII**

Defendant LUKE STROMMEN, acting under color of law, forcibly sexually assaulted/ abused plaintiff ELENA SALINAS in violation of her constitutionally protected rights and in violation of federal statutes.

**XXXVIII**

As a result of defendants § 1983 violation plaintiff has suffered damage including but not limited to: severe and serious mental distress, mental and physical injury, past and future medical expenses, past and future lost income, impairment to earning capacity, and loss of established course of life, for which she claims damages.

**COUNT IX  
PUNITIVE DAMAGES**

**XXXIX**

Plaintiff ELENA SALINAS realleges the allegations in paragraphs I-XXXV of this complaint.

**XL**

Defendants VALLEY COUNTY and LUKE STROMMEN acted with actual fraud and actual malice as defined by Mont. Code Ann. § 27-1-221 (2019), and therefore should be required to pay Plaintiff punitive damages.

WHEREFORE, Plaintiff ELENA SALINAS prays judgment against Defendant VALLEY COUNTY as follows:

1. For the damage caused to Plaintiff ELENA SALINAS as a result of Defendant VALLEY COUNTY's negligence, including her past and future medical expenses, her mental and physical injuries, her pain and suffering, her emotional distress, for her past and future lost wages, for her impairment to earning capacity, loss of established course of life and any other damages caused by defendants' negligence;
2. For Plaintiff ELENA SALINAS' severe mental and emotional distress;
3. For general damages;
4. For any equitable relief;
5. For punitive damages;
6. For attorney's fees and costs; and

7. For such other and further relief as the court deems just and proper.

WHEREFORE, Plaintiff ELENA SALINAS prays judgment against Defendant LUKE STROMMEN as follows:

1. For Plaintiff's damages caused by Defendant LUKE STROMMEN'S intentional conduct, including her past and future medical expenses, her mental and physical injuries, her pain and suffering, her emotional distress, for her past and future lost wages, for her impairment to earning capacity, loss of established course of life and any other damages caused by Defendant's intentional conduct;
2. For Plaintiff ELENA SALINAS' severe mental and emotional distress;
3. For general damages;
4. For any equitable relief;
5. For punitive damages;
6. For attorney's fees and costs; and
7. For such other and further relief as the court deems just and proper.

DATED THIS 25th DAY OF MARCH, 2020.

EVERETT COOK LAW, PLLC

BY: /s/ Adam Cook  
ADAM COOK  
Attorney for plaintiff